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OSD/ISP FOR COOPER AND JEFFERSON, JCS FOR MCCARTHY AND
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E.O. 12958: DECL: AFTER KOREAN REUNIFICATION
TAGS: [PREL](#) [PARM](#) [MNUC](#) [KNNP](#) [KN](#) [KS](#)
SUBJECT: ROK OFFICIALS DISCUSS NEXT STEPS IN SUPPORT OF WMD
INTERDICTION IN MARCH 8 MEETING WITH PSI OPERATIONAL EXPERTS

Classified By: POL M/C JOSEPH Y. YUN. REASONS 1.4 (B, D).

SUMMARY

¶1. (C) In a March 8 meeting with ROKG counterparts in Seoul, a U.S. inter-agency Proliferation Security Initiative (PSI) team briefed South Korean officials on the operational aspects of PSI and recent trends in proliferation. The ROK delegation summarized the factors that led Seoul to accept five elements from Washington's eight-point proposal for cooperating in PSI activities and briefed the U.S. delegation on South Korea's enhanced export control regime. During the Q and A session, the ROK officials raised questions on the compatibility of PSI activities with existing international law, global support for PSI, and details related to interdiction operations and exercises. They stated firmly that Seoul would incorporate WMD-related interdiction components into existing U.S.-ROK military exercises only within the context of wartime scenarios. END SUMMARY.

¶2. (C) On March 8, OSD Director for Nonproliferation Policy David Cooper and a Proliferation Security Initiative (PSI) inter-agency team met with counterparts from the Ministry of Foreign Affairs and Trade (MOFAT) and a broad range of other relevant ROKG ministries (list of U.S. and ROK participants at para 13). The plenary session lasted nearly four hours, with two briefings from key members of the U.S. team, one briefing from the ROK side, and an active question and answer session. Director Kwon Hee-seog of MOFAT's Disarmament and Nonproliferation Division headed the ROK team.

U.S./UN INITIATIVES CONSIDERED IN REACHING PSI DECISION

¶3. (C) Kwon welcomed the U.S. delegation and opened by summarizing the chain of events since 2003 that directly influenced the ROK's decision to accept five elements among the eight-point proposal for ROK cooperation in PSI activities, which U/S Robert Joseph delivered in August 2005. The ROKG noted that the March 2005 report by UN Secretary General Kofi Annan and the December 2004 report by the UN SecGen's High-level Panel on Threats, Challenges and Change both encouraged states' participation in PSI. Following U/S Joseph's visit, the ROKG had also taken into consideration the recent amendments to the Convention for the Suppression

of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), the adoption of UNSC Resolution 1540, and PSI participation by neighboring countries in the Asia-Pacific region. Subsequently, Deputy Minister for Policy Planning Chun Yung-woo (recently named ROK lead negotiator for the Six Party Talks), during his January visit to Washington, conveyed to U/S Joseph Seoul's decision to accept five elements from the U.S. August proposal.

ROK'S CAUTIOUS APPROACH DUE TO N-S RELATIONS

14. (C) Kwon, underscoring that the ROK shared Washington's objective of combating illicit WMD trade, stated that the ROK was cognizant of the growing need for an enforcement mechanism for international norms on disarmament, nonproliferation, and arms control beyond effective export controls and recognized interdiction and PSI as the preeminent tool in this area. As such, the ROK would examine each invitation for its participation in specific PSI interdiction operations and exercises on a case-by-case basis and cooperate within possible parameters. Kwon stressed, however, that the ROK had to be cautious in its PSI participation in light of sensitivities in inter-Korean relations. Moreover, Kwon stressed, the ROK would continue to contribute to various international efforts to halt the spread of WMD regardless of its position on PSI.

PSI COMPLEMENTS NATIONAL COUNTERPROLIFERATION PROGRAMS

15. (C) Dr. Cooper noted that the ROK's decision to accept elements from the eight-point proposal was a positive development and a move welcomed by the USG. He pointed out

that PSI complemented existing national and multilateral measures for curbing the spread of WMD. Rather than replacing existing national programs, PSI provided a framework for individual countries to make a contribution with their national programs to the larger global effort. This was consistent with UNSC Resolution 1540, which stated that combating the illicit trafficking of WMD was a responsibility for all UN members.

MOFAT FOCUSES ON PSI LEGALITY

16. (C) MOFAT officials began the Q and A session by directing questions to the relationship between PSI and existing international law. Director Kwon asked how PSI participants would handle flag vessels from countries, such as North Korea, that are not party to the SUA Convention. Deputy Director Yu Ki-jun of MOFAT's Treaties Division II inquired about the legality of conducting air interdictions in international airspace and maritime interdiction on the high seas. Dr. Cooper, responding to Kwon's question on air interdictions international airspace, noted that in practice, aircraft involved in proliferation-related trafficking usually had to overfly national airspace, which afforded opportunities for countries being overflown to exercise their sovereignty. He also underscored that an important strategy of PSI was to limit routes for aircraft carrying WMD-related cargoes by denying overflight permission, thus making proliferation more costly. Cooper added that in addition to available legal authorities, individual airlines or freight companies could facilitate interdiction by cooperating with national governments.

17. (C) On the issue of boarding authority for North Korean and other foreign flagged vessels where the flag state was not party to SUA, Cooper noted that while SUA provided an important new international legal authority, it was not the only basis for conducting boardings on the high seas. For example, international law already contemplated ship boardings in various contexts. Cooper noted that PSI bilateral boarding agreements and the boarding cooperation aspects of the PSI Statement of Interdiction Principles (SOP), which were based on existing international law,

already afforded access opportunities to a majority of maritime tonnage, and these opportunities were expanding as new boarding agreements were concluded and additional countries endorsed the PSI SOPs. Therefore, while the example of a North Korean flagged, owned and operated ship -- traveling point-to-point on the high seas with no stops along the way -- represented an especially challenging case, this was not how most WMD-related transfers occurred in reality. For potential proliferators, the cost of navigating solely through the high seas and on ships that they flagged, owned, and operated would be higher than other means.

18. (C) CDR Patrick McCarthy of the Office of the Legal Counsel, JCS, stressed that each PSI participant had to honor existing laws and regulations in the process of air interdiction, adding that most air interdiction operations would take place over sovereign airspace or on sovereign land. The United States or other relevant parties would then seek cooperation from the government of the territory in question. McCarthy then expanded in detail on the numerous legal authorities available to conduct both air and maritime interdictions. ROK Deputy Director Yu (MOFAT Treaties Division II) asserted that the new SUA provisions would not be applicable to countries that were not party to the convention (such as North Korea). ROK Coast Guard Superintendent Youn Tae Ik pointed out that his agency, as the lead for enforcement of ROK law in territorial waters, did not currently have the legal authority to interdict WMD-related shipments in its territorial waters (including its Exclusive Economic Zone).

QUESTIONS ABOUT GLOBAL SUPPORT FOR PSI

19. (C) Director Kwon asked for clarification on U.S. assertions that "more than 70 countries supported PSI" and Secretary Rice's May 2005 remarks that "in the last nine

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months alone, the United States and ten of our PSI partners have quietly cooperated on 11 successful efforts." In particular, he questioned whether the 70-plus countries have all endorsed the PSI principles and noted that, based on a non-paper received from the United States, he had concluded that only 31 countries had actually endorsed PSI formally. He also asserted that two of the 11 interdiction cases referred to by Secretary Rice had supposedly involved ROK cooperation, and that State officials had subsequently acknowledged the veracity of ROKG assertions that those cases had predated PSI.

10. (C) Cooper responded that the countries cited in the non-paper were intended as illustrative. In regard to the number of actual PSI interdictions to date, he said it was impossible to provide a precise number because these were often based on highly sensitive intelligence and therefore could not be disclosed, or in some cases might not involve the United States. The key point was that PSI was not only about meetings and exercises, but real-world operations, and that the direction of such operations was upward.

NEXT STEPS ON EXERCISES

11. (C) Kwon clarified that Deputy Minister Chun, in his January meeting with U/S Joseph had clearly stated that the ROK would incorporate WMD-related interdiction components into existing U.S.-ROK bilateral military exercises and training only in wartime scenarios. Next steps on this effort, therefore, warranted consultations between USFK and the ROK Ministry of National Defense and ROK Army. The U.S. delegation, which included two representatives from USFK, pledged to begin these consultations at the earliest opportunity. (COMMENT: This ROK restriction should not greatly constrain bilateral exercise cooperation because U.S.-ROK bilateral military exercises already focus on wartime scenarios. END COMMENT.)

¶12. (C) Regarding ROK participation in PSI exercises as an observer, Kwon clarified that Seoul would observe the April air interdiction exercise in Australia and have received an invitation to the May combined air, ground and maritime exercise in Turkey. Kwon welcomed the U.S. delegation's information about the upcoming April maritime exercise to be hosted by the Netherlands, the June air exercise to be hosted by France, and the October maritime exercise to be hosted by the United States. Seoul had not yet decided on the other exercises and would likely decide after observing the exercise in Australia, but recognized the value in attending a broad range of exercises.

PARTICIPATION

¶13. (SBU)

U.S.:

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Ian Jefferson, ISP/NP/NPP, OSD
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Barry Tang, ICE, DHS, Embassy Seoul
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ROK:

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Youn Tae Ik, Superintendent, ROK Coast Guard
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Justice
Hur Sang Jin, Senior Inspector, ROK Coast Guard

¶14. (U) Dr. Cooper has cleared this message.
VERSHBOW